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November 8, 2021

Via ECF

****Memorandum Endorsed Letter on Page 2****

Honorable James J. Garrity, Jr.
U.S. Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004-1408

**RE: *Piazza v. Sagi Genger, et al.*, Adv. Pro. No. 21-01170 (JLG);
In re Orly Genger, Chapter 7 Case No. 19-13895 (JLG)**

Dear Judge Garrity:

This firm represents defendant Sagi Genger (“Defendant”) in the above-referenced adversary proceeding. We write in response to the letter filed earlier this morning by Rocco Cavaliere, Esq., counsel for plaintiff Deborah Piazza, the Chapter 7 trustee’s (“Trustee”) seeking to transform the parties’ pre-trial conference, currently scheduled for tomorrow at 11:00 AM, into a pre-motion conference on the Trustee’s contemplated motion for summary judgment.

Defendant respectfully requests that this Court adjourn tomorrow’s conference to either December 9, 2021, when the Court will be hearing other matters related to the Orly Genger bankruptcy, or at an alternative date on which the Court is available.

The reason for Defendant’s request is two-fold. First, Defendant believes that it would be beneficial for the parties to meet and confer prior to any pre-motion conference with respect to summary judgment. Defendant believes that the parties’ dispute can be resolved without burdening the Court with extensive summary judgment motion practice. In that regard, on October 10, 2021, Defendant offered to Trustee, that if her Rule 9019 motion were approved by the Court, Defendant would promptly withdraw the lien at issue, so that it does not present a barrier to consummation of her settlement agreement. *See* email correspondence and draft stipulation attached hereto as **Exhibit A**. Although the Trustee denied Defendant’s proposal, Defendant continues to believe that our proposal forms a basis upon which a resolution can be had without extensive motion practice, and that an adjournment of tomorrow’s conference will afford the parties time to explore a resolution without delaying any other deadlines in this matter.

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2

Second, I have an unavoidable and previously unexpected commitment at the time the conference is currently scheduled, and thus my colleague Ms. Swartz (who is relatively new to the case) would need to handle the matter in my absence.

Defendant requested Plaintiff's consent for this adjournment, but did not hear back from him prior to the deadline to make this submission under Your Honor's Rules.

We thank the Court for its time and attention to this matter.

Sincerely,

/s/ John Dellaportas

John Dellaportas

cc: All Counsel of Record (via ECF)

****Memorandum Endorsed Order****

The Court having considered the relief requested by the Trustee's counsel in his letters of November 8, 2021 [AP ECF Nos. 11 and 13] and the request for relief set forth herein, the Court Orders, as follows:

1. The pre-trial conference in this adversary proceeding is adjourned to December 9, 2021 at 2:00pm (ET).
2. The Trustee's request to file a motion for summary judgment by November 10, 2021 is denied.

Dated: November 8, 2021
New York, NY

/s/ James L. Garrity, Jr.
Honorable James L. Garrity, Jr.
U.S. Bankruptcy Judge

From: Rocco A. Cavaliere <rcavaliere@tarterkrinsky.com>
Sent: Wednesday, October 20, 2021 3:27 PM
To: John Dellaportas <JDellaportas@EMMETMARVIN.COM>
Subject: RE: Adv. Pro. No. 21-01170 (JLG)

John,

After further consideration of the homestead lien and the pending settlement motion and relevant law, and after consulting with the parties that have an interest in the homestead, I was not able to formulate an acceptable revised stipulation for your review at this time. Please file your answer tomorrow and once we evaluate your answer and affirmative defenses, if any, the Trustee hopes to be in a better position to propose to all the parties a consensual stipulation/order relating to, among other things, a prompt withdrawal of the lien. Thanks.

Rocco



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COVID-19 RESOURCE CENTER

From: John Dellaportas <JDellaportas@EMMETMARVIN.COM>
Sent: Thursday, October 14, 2021 4:32 PM
To: Rocco A. Cavaliere <rcavaliere@tarterkrinsky.com>
Subject: [EXT] Re: Adv. Pro. No. 21-01170 (JLG)

Ok

On: 14 October 2021 16:26,
"Rocco A. Cavaliere" <rcavaliere@tarterkrinsky.com> wrote:

John,

Took a quick glance and it needs some changes. I will work with the Trustee to see if we can propose any alternative language that could work and will be in touch.

Rocco



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COVID-19 RESOURCE CENTER

From: John Dellaportas <JDellaportas@EMMETMARVIN.COM>
Sent: Sunday, October 10, 2021 4:48 PM
To: Rocco A. Cavaliere <rcavaliere@tarterkrinsky.com>
Subject: [EXT] Adv. Pro. No. 21-01170 (JLG)

Rocco, in your September 15, 2021 letter to the Court, and again in the teleconference with the Court on the morning of September 30, you indicated that the Trustee was looking for Sagi to commit to withdrawing the lien in the event that the Rule 9019 motion were granted, without regard to its finality (i.e. any appeal, etc.). Sagi is willing to so stipulate. Please find attached a proposed stipulation, and let me know your thoughts. Thank you. John

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Tarter Krinsky & Drogin LLP, Attorneys-at-Law.

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Tarter Krinsky & Drogin LLP, Attorneys-at-Law.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re ORLY GENDER,
Debtor.

Chapter 7

Case No. 19-13895 (JLG)

DEBORAH J. PIAZZA, as Successor
CHAPTER 7 TRUSTEE, of the Bankruptcy
Estate of Orly Genger,

Plaintiff,

v.

Adv. Pro. No. 21-01170 (JLG)

SAGI GENDER,

Defendant.

STIPULATION

WHEREAS, by Complaint dated July 11, 2021 filed in the above-named adversary proceeding (the “Complaint”), Deborah Piazza, Chapter 7 Trustee (the “Trustee”), commenced this action, seeking (a) a declaratory judgment, or, alternatively, (b) avoidance of a preferential transfer pursuant to sections 547(b) and 550(a) of title 11 of the United States Code (the “Bankruptcy Code”), and (c) disallowance of Defendant’s claims pursuant to section 502(d) of the Bankruptcy Code, in each case relating to a judgment lien filed by Sagi Genger (“Sagi”) in the State of Texas (hereinafter, the “Lien”),

NOW, THEREFORE, it is respectfully stipulated and agreed as follows:

1. In the event that the Bankruptcy Court should grant the Trustee’s Rule 9019 motion, Sagi shall immediately withdraw the Lien, without regard for any appeal, stay application, reargument motion or otherwise.

2. The Complaint shall be withdrawn, without prejudice. In the event that the Bankruptcy Court should deny the Trustee's Rule 9019 motion, the Trustee may, at her discretion, refile the Complaint in original or amended form, in which case the filing date of the refiled Complaint, for statute of limitations and all other purposes, shall be treated as if it were filed on July 11, 2011.

Dated: October [REDACTED], 2021
New York, NY

TARTER KRINSKY & DROGIN LLP

By: /s/ **DRAFT**
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*Counsel to plaintiff Deborah J. Piazza,
as Successor Chapter 7 Trustee of the
Bankruptcy Estate of Orly Genger.*

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